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OFFICE OF PETITIONS

In re Application of	:
lloyd G. Jones	:
Application No. 10/659,818	: DECISION ON PETITIONS
Filed: September 11, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DR 99.05/2	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed April 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of a prior-filed nonprovisional application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain

a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

The required reference to the prior-filed application has not been submitted.¹ As such, the petition must be dismissed.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and a proper submission that contains the required reference is required.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.



Charles A. Pearson
Director
Office of Petitions

¹ Please note 37 CFR 1.121. It is improper to include the priority claim in the petition, but, rather it must be contained in an amendment to the 1st line of the specification, or be included in an ADS in accordance with 37 CFR 1.76(b)(5).